IN THE MATTER OF ARBITRATION	**OPINION & AWARD**
-between-	**Grievance Arbitration**
WRIGHT COUNTY DEPUTIES ASSN.	**B.M.S. Case 15-PA-0538**
-and-	**Re: Employee Termination**
WRIGHT COUNTY **BUFFALO, MINNESOTA**	**Before: Jay C. Fogelberg** **Neutral Arbitrator**

Representation-

For the County: Susan K. Hansen, Attorney

For the Union: Robert Fowler, Attorney

Statement of Jurisdiction-

The Collective Bargaining Agreement duly executed by the parties, provides in Article VII for an appeal to binding arbitration of those disputes that remain unresolved after being processed through the initial three steps of the grievance procedure. A formal complaint was submitted by the Union on behalf of the Grievant on December 8, 2014, and thereafter appealed to binding arbitration when the parties were unable to resolve this matter to their mutual satisfaction. The under-signed was then mutually selected as the neutral arbitrator by the parties from a panel of arbitrators provided by the Bureau of Mediation Services, and a hearing convened on June 30, 2015, in

Buffalo, Minnesota and thereafter continued on July 14th. Following receipt of position statements, testimony and supportive documentation, each side expressed a preference for submitting written summary briefs. These were received on August 24, 2015, at which time the hearing was deemed officially closed.

At the commencement of the proceedings, the parties stipulated that this matter was properly before the Arbitrator for resolution based upon its merits, and that the following represents a fair description of the issue.

The Issue-

Was the Grievant's employment with the County terminated for just cause? If not, what shall the appropriate remedy be?

Preliminary Statement of the Facts-

The record developed during the course of the proceedings indicates that the Wright County Deputies Association (hereafter "Union," "Association" or "WCDA") represents, all Deputy Sheriffs and Sergeants employed by the Wright County Sheriff's Department ("County," "Employer," or "Department") headquartered in Buffalo. Together, the parties have negotiated a labor agreement covering terms and conditions of employment for members of the bargaining unit (Joint Ex. 1).

The Grievant, Rebecca Wirkkula, was initially employed as a licensed Deputy Sheriff with the County in November of 2002. Thereafter, she left her position in 2004 to raise a family, but returned to the Department in the same capacity in 2008, where she remained until she was discharged. As a licensed law enforcement officer for the County, Ms. Wirkkula was a member of the certified bargaining unit represented by the Association.

On August 14, 2014, County Sheriff Joe Hagerty received a telephone call from the Carver County Sheriff Jim Olson informing him that one of his Deputies was associating with a convicted felon who was currently residing in Chaska, Minnesota. Further inquiry revealed that the man identified as Ivan Lavrusik, had been convicted of prostitution in Las Vegas in 2009, and that he had an "extensive criminal history" which included an additional charge of prostitution in Scott County, as well as other misdemeanors (Employer's Ex. 3). Subsequently, the Employer was notified by the City of Chaska's Police Department concerning a report of theft wherein Mr. Lavrusik had been interviewed and mentioned Deputy Wirkkula, whom the investigating officer had questioned in connection with Lavrusik involvement. On August 21, 2014, Sheriff Hagerty learned of additional reports confirming the Grievant's affiliation with Lavrusik.

Thereafter an internal investigation into the relationship between Ms. Wirkkula and Lavrusik was ordered by the Sheriff to be conducted by Lt. Sean Deringer from the Department's Internal Affairs Division ("IAD").

Lt. Deringer's investigation included interviews with Deputy Wirkkula, Lavrusik's Probation Officer, DOC Agent Ron Kahl,[1] Chaska Police Officer Mike Kleber, Ivan Lavrusik, and Barbara LaCombe among others, the majority of which were recorded (Department's Ex. 1). The Lieutenant's Summary found that Deputy Wirkkula's relationship with Lavrusik violated multiple County policies including the prohibition against associating with persons known to have engaged in criminal activities which would undermine the public's trust and confidence in its peace officers (County's Ex. 1B).

On November 25, 2014, Ms. Wirkkula was notified of the charges that were sustained against her as a result on the Department's investigation in the Sherriff's "Notice of Intent to Terminate" her employment pending a Laudermill hearing (Joint Ex. 2). On December 8th of the same year, Deputy Wirkkula received written notice of her termination "effective immediately" for her alleged multiple violations of the County's Code of Conduct and related policies, *infra*, stemming from her association with Mr. Lavrusik (Joint Ex. 3). On that same date the Union filed a formal complaint on behalf of Ms. Wirkkula claiming that her termination lacked just cause and seeking a make whole remedy (Joint Ex. 4). Eventually the matter was appealed to binding arbitration when the parties were unable to resolve the matter to their mutual satisfaction.

[1] The evidence reveals that Mr. Lavrusik was placed on supervised probation in 2011, with a current release date of January 2026 (County's Ex. 3).

Relevant Contractual & Policy Provisions-

From the Master Agreement:

Article X
Discipline

10.1 The Employer will discipline Employees for just cause only…

From the Sheriff Department's General Orders:

G100.03 The Cannons of Police Ethics

All licensed personnel shall abide by the Law Enforcement Code of Ethics.

* * *

I will keep my private life unsullied as an example to all…

G101.02 Policy

Law enforcement effectiveness depends upon community respect and confidence. Conduct which detracts from this respect and confidence is detrimental to the public interest and is prohibited…

G101.03 Conduct

* * *

Principle Two

Peace officers shall refrain from any conduct in a social capacity that detracts from the public's faith in the integrity of the criminal justice system.

* * *

Principle Four

Peace officers shall not, whether on or off duty, exhibit any conduct which discredits themselves or this office or otherwise impairs their ability or that of other officers or this agency to provide services to the community.

* * *

Rules

* * *

4.9 Peace officers shall avoid regular personal associations with persons who are known to engage in criminal activity where such associations will undermine the public trust and confidence in the officer or this agency. This rule does not prohibit those associations that are necessary to the performance of official duties, or where such associations are unavoidable because of the officer's personal or family relationships.

* * *

G110.03 Rules of Conduct

Any breach of the peace, neglect of duty, misconduct or any conduct on the part of any member of the department which violates existing community moral standards, either within or without Wright County, which tends to undermine the good, order, the efficiency, or discipline of the department, or which reflects discredit upon the department or any member thereof, or which is prejudicial to the efficiency and discipline of the department….shall be considered conduct unbecoming a member of the Wright County Sheriff's Office, and subject to disciplinary action by the Sherriff.

* * *

Section 5.

Members of the department shall make a reasonable effort to refrain from making personal contacts with persons of questionable character….unless necessary to do so in the performance of their duty.

* * *

Section 11.

No member of the department shall make any false statement or intentionally misrepresent facts under any circumstances.

Positions of the Parties-

The **EMPLOYER** takes the position that their decision to terminate Ms. Wirkkula's employment in December of last year was entirely proper and justified under the circumstances. In support of their claim, the Department maintains that the evidence demonstrates conclusively Deputy Wirkkula had been in a dating relationship with a man who had an extensive criminal history including two separate arrests for prostitution, possession of a controlled substance, engenderment of a child and more than one DUI. On the evening of May 9, 2014, the Grievant was observed by a woman who had been sharing an apartment with Lavrusik (Barbara LaCombe) assisting Lavrusik shutting off lights and locking doors to the apartment when members of the Chaska Police Department were knocking at his door. Further, they claim that on more than one occasion, Deputy Wirkkula was advised and cautioned first by an officer of the Chaska Police Department in early May of last year (while investigating a matter where Lavrusik was named as a suspect) and subsequently by IA Lt. Deringer to end her relationship with Lavrusik – a known felon – but that she failed to heed their cautionary words and continued to communicate with him frequently via telephone and text.[2] Moreover she spent the night at his residence after receiving the warning from the two officers.

[2] According to the Employer, Lt. Deringer warned the Grievant that she was violating Department policy and continuing to associate with Lavrusik placed her in "jeopardy of losing her job" (Employer's Ex. 1).

According to the Employer, the Grievant was less than forthcoming in the course of their investigation. When asked if she knew Lavrusik was using alcohol, in spite of the fact that he was not to do so under the terms of his parole, she initially responded in the negative. However, when interviewed a second time by IA she admitted that she knew he had an ignition interlock on his car that prevented him from operating the vehicle if he had been drinking, and subsequently acknowledged that she had observed him having a drink when they went out for dinner. Additionally, the Administration charges that throughout the investigatory process, the Grievant was evasive and less than cooperative with Lt. Deringer. They assert that she knew her association with Lavrusik was contrary to the Department's published policies; was warned more than once about her poor judgment, and yet continued to associate with him. In total, her conduct violated a number of the Employer's published policies and undermined the public's trust and confidence in the Department. Accordingly, for all these reasons, they ask that the grievance be dismissed in its entirety.

Conversely, the **ASSOCIATION** takes the position in this matter that Deputy Wirkkula's termination was not justified under the circumstances. In support, the WCDA contends that the Grievant has been a long term employee with the Department with an otherwise spotless record. Further, they claim that Mr. Lavrusik has been found guilty of a single felony infraction and has not violated his parole. They maintain that Officer Wirkkula did not assist

him in locking his doors and turning off the lights when the Chaska Police came to his residence in May of last year. In this regard, they argue that the only evidence the Employer has to substantiate the charge is the testimony of Barbara LaCombe whose opinion of her former landlord is less than objective. Nor was the Grievant ever ordered to severe her relationship with Ivan Lavrusik by her superiors. The Association notes that at the time she met Lavrusik (through an online dating service) she was emotionally vulnerable having been recently divorced and under a great deal of stress while attempting to raise her young child. However, Officer Wirkkula has since severed all contact with Lavrusik and moreover is seeing a professional to get help with her stress.

Additionally, the WCDA asserts that the policies in place at the time of the incident and relied upon by the Administration in reaching their decision, were (and continue to be) worded in a relatively vague and sometimes confusing manner. Particularly, they maintain that "Principle Four" paragraph 9 of the Department's Directives Manual does not prohibit association with someone who has been connected to a crime where the officer is involved in a "personal relationship." Further the Union posits that the internal investigator was less than objective as his report used inflammatory language while attributing statements to the Grievant that she did not make.

Finally, the Association contends that the discipline issued to Ms. Wirkula was excessive given her most favorable work record, and how other officers have been treated for similar alleged infractions. For all these reasons then they

ask that the grievance be sustained and that Deputy Wirkkula be returned to her position with the Department and made whole.

Analysis of the Evidence-

A review of the record necessarily begins with the reasons given to Ms. Wirkkula in the November 25th letter to her from Sheriff Hagerty for her termination. While a number of policies were cited in reference to her perceived misconduct, it is abundantly clear that the Employer's position in this matter can be distilled to two principle allegations. First, they claim that her association with Mr. Lavrusik had an adverse effect on the public and other law enforcement agencies thereby bringing discredit to the Sheriff's Department. Specifically they contend that she violated Rule 4.9 by associating herself with Lavrusik. Second, the Employer asserts that the Grievant intentionally made false statements to Lt. Deringer in the course of the IA investigation.

Throughout the course of the hearing and in their written summary brief the Department continually noted that a law enforcement officer is held to a higher standard in the community – both on and off duty. No one disputes the need for the well-established principle or that the Administration retains the right to promulgate rules of conduct and policies addressing job performance for their law enforcement personnel. At the same time however, the rules and policies promulgated by management in connection with the heightened standard must be clearly communicated to the bargaining unit members –

particularly when an employee's failure to adhere to them, can result in discipline, up to and including discharge.

Rule 4.9, *supra*, is significant. The County emphasized its alleged violation by Officer Wirkkula in support of their decision to terminate her employment. Principle 4 of the Department's Manual addresses conduct which would discredit either the officer or the office or otherwise would impair the ability of the agency to provide services to the citizens of Wright County. Rule 4.9, *supra*, under Principle 4, mandates that officers are to avoid personal associations with persons, "….who *are known* to engage in criminal activity" (emphasis added). As the WCDA has accurately observed, the language is written in the present tense. The policy does not say "has engaged." Rather, it is couched in terms of the present. The uncontested facts demonstrate that Mr. Lavrusik's last known conviction was in 2010, four years prior to the Grievant's involvement with him, and three years after he had been placed on probation. The record further shows no formal established violation of his parole during the time Wirkkula was involved with him. It cannot be said therefore, that Lavrusik was "known to engage in criminal activity" during the time in question. Indeed, there was no evidence demonstrating that Lavrusik was involved in any criminal activity since a DWI that occurred before Officer Wirkkula met him.[3]

[3] While Lavrusik was a suspect and had contact with the Chaska Police Department in connection with their investigations during this time, this does not, in my judgment, rise to the level of current engagement in criminal activity that the rule speaks to.

Equally significant is the observation made by Sherriff Hagerty on cross-examination that there was no evidence the Grievant was in any manner involved or assisted Lavrusik in any criminal activity.

The same rule exhibits ambiguity in the last exclusionary sentence which does not prohibit an officer associating with someone, "….where such associations are unavoidable *because of the officer's personal….relationships*" (emphasis added). That the Grievant was romantically involved with Mr. Lavrusik is beyond question. She began dating him in February of 2014 and by mid-April of the same year, the record shows she had fallen in love with him and, in her own words, was most certainly in a "personal relationship." Without further defining the critical term "personal relationship" in their rules of conduct, I cannot endorse the Employer's position that the Grievant's interaction with Lavrusik was clearly outside of the exceptions referenced in 4.9. The policy is not clear and unambiguous, as the County claims. Rather I find it to be vaguely worded, subject to competing interpretations, and inapplicable based on the facts in the record.

The Employer argues that even if there was some doubt in the Grievant's mind regarding the application of the Department's policies to her involvement with Lavrusik, she had nevertheless been put on notice that she should end the relationship immediately with him, but yet failed to do so. The evidence demonstrates that despite the cautionary statements from Lieutenant Deringer in the course of his investigation into her personnel involvement with Lavrusik,

Officer Wirkkula continued to engage in telephone calls and text messages with him and spent the night at his residence as late as November 1, 2014.

While the Employer has characterized these events as approaching insubordination, the facts reveal that what was told to her by Lt. Deringer was cautionary as opposed to a direct order. In the lieutenant's own words, he never directed the Grievant to stop seeing Lavrusik, rather he simply cautioned about her continuing association with him (cross-examination of Deringer).

The record shows that the same advise was given to the Grievant by Officer Kleber from the Chaska Police Department when he spoke with her in July of 2014 (Employer's Ex. 4). Similarly, Sheriff Hagerty acknowledged that while he did not meet directly with Officer Wirkkula about this, she was advised to get out of the relationship, though she was never given a direct order to do so.

Certainly, the Grievant knew based upon the foregoing facts that supervision was urging her to end her involvement with Mr. Lavrusik, yet she failed to heed the caution. By her own words, this was a "red flag" which she at first chose to ignore. In her letter to the Sheriff given to him at the pre-termination meeting, she acknowledged that she had made some poor choices over the previous nine months with regard to her relationship with someone owning a criminal record. At hearing she admitted that she was aware that Sheriff Hagerty was "very concerned" about her connection with Lavrusik but still continued to see him at least until November of 2014.

The County claims that this evidence proves that Officer Wirkkula was given numerous opportunities to demonstrate that she was able to conduct herself in accordance with their policies and uphold the core principles of being a peace officer. I must however, respectfully disagree. While the testimony and supportive documentation – which includes the Grievant's own acknowledgement – establishes that her romantic involvement with Lavrusik produced poor decisions on her part, her conduct does not rise to the level of clear and convincing evidence of misconduct sufficient to support the most sever penalty of termination.

As previously stated, I find insufficient evidence demonstrating a violation of Rule 4.9 as the Employer asserts given it's ambiguity and the exception carved out for "personal relationships." She was never given a direct order to end the relationship. Moreover, the unrefuted fact remains that the man she was involved with was given a lengthy probation for his misconduct, after he had been incarcerated for ninety days. Clearly, Mr. Lavrusik was far from a model citizen. Yet at the same time the court placed him back into society, albeit with a lengthy audition, believing he was capable of demonstrating he could correct his behavior. By doing so he had the same rights that the majority of other citizens in the County had, including the prerogative of engaging in a romantic relationship. I am satisfied that there is nothing in the record indicating that Officer Wirkkula's encounter with him was prohibited. As she admitted in the course of her testimony, Lavrusik had a "horrible

background" but that she was unaware of it when she first became involved with him. Once made known to her, she admitted that her emotional state of mind at the time, having been recently divorced, "clouded her judgment."

The Department's position gains altitude when the second highlighted charge is considered. Initially, this allegation centers on Officer Wirkkula's initial formal interview with IA on September 24th of last year. At that time she was asked if she had ever observed Lavrusik using "alcohol or any other controlled substances" during the course of her relationship with him. Her response was: "No I have not" (Employer's Ex. 1; Tab E, p. 20). However in her second interview on November 4th, after being cautioned by Lt. Deringer to be "very careful and this is I'm ordering you [to give] a truthful statement…." about whether she ever saw Lavrusik consume alcohol, she acknowledged that she had (County's Ex. 1; Tab O, p. 10).

In the her defense, the Association argues that Officer Wirkkula was feeling frustrated and exhausted when the question was posed to her in her initial lengthy interview in September by Lt. Deringer and that consequently it was possible that she misunderstood the question thinking it was limited to drug use alone. They maintain that the compound query consisted of two components: alcohol and drug use, and consequently was unfair. In hind sight while the more preferable approach by IA might have been to divide the subject matter between two questions, that not altogether exonerate the Grievant. Alcohol was mentioned first at the September interview. The

assertion that she somehow misunderstood what was being asked of her because two subjects were addressed in the same question, is untenable in my judgment. It is noteworthy that she answered truthfully when asked a second time in the November interview. However, at that time Lieutenant Deringer had prefaced the question with a cautionary remark to be "very careful" to give a "truthful statement" in response to whether she had ever seen Lavrusik use alcohol. Moreover, as the Administration points out, the Grievant had counsel with her at the time the question was initially posed in September. If it was believed that the form of the inquiry was confusing in terms of its subject matter, it could have been objected to or asked to be clarified. However, that did not occur.

The Garrity statement Officer Wirkkula signed in advance of both the September and November interview states in plain and unambiguous terms that giving the interviewer a false or intentionally incomplete statement or omitting information that is pertinent to the investigation would subject her to discipline.[4]

There is also evidence that during the September 24th interview, the Grievant represented that she was no longer in a relationship with Mr. Lavrusik. However, during her second Garrity interview she admitted that she had continued to have communications with him via phone and by text every few days. In addition Officer Wirkkula acknowledged that she had spent the night

[4] In the course of his testimony, the Sherriff allowed that the Grievant was "forthright" and did not hide her knowledge of Lavrusik's use of alcohol in her second interview with Lt. Deringer.

at Lavrusik's residence as recently as November 1, 2014 (Department's Ex. 1; Tab O, p. 2; cross-examination of Wirkkula).

The balance of the Employer's assertions which they claim serve as justification for terminating Ms. Wirkkula's' employment have been considered as well. However, I find them to fall short of the clear and convincing evidentiary standard routinely applied in disciplinary matters such as this. They include the claim that she avoided a Chaska Officer who sought to question her or was otherwise uncooperative in their investigation of Mr. Lavrusik, as well as the implication that the Grievant assisted him in hiding from the Chaska police when they came to his house in July 2014 in connection with an on-going criminal investigation. Under cross-examination, Chaska Officer Kleber allowed that "anyone has the right not to speak to an officer" without representation. Further, Officer Wirkkula testified that she did eventually contact the Chaska Police Department and answered Kleber's questions.

The Employer further contends that the Grievant assisted Lavrusik in turning off the lights in his townhouse when the Chaska Officers called on him on May 9, 2014. The evidence however, fails to substantiate this claim as well. At the hearing Ms. LaCombe who rented a room from Lavrusik and who was the only other witness present in the house at the time, testified that the Grievant "did not go along with it" in reference to his turning off the lights and locking doors on that night, nor did she observe her participating in the attempted deception. As Officer Wirkkula observed in the course of her

testimony, she did not believe that it was her place to answer the door as she was a guest in Lavrusik's home and would have risked "legal consequences" if she had done so. She did however, recall encouraging him to open the door at the time. Her statements in connection with this issue were not significantly challenged.

It has long been axiomatic in arbitral jurisprudence that when evaluating the propriety of any penalty administered against an employee their work record is almost always taken into account. See: Fairweather, *Practice and Procedure in Labor Arbitration,* 2nd Edition, p.301-302; Hill and Sinicroppi, *Evidence in Arbitration*, p. 34, BNA 1980; Elkouri and Elkouri, *How Arbitration Works* p 983, BNA 6th Ed.; Brand, *Discipline and Discharge in Arbitration*, BNA 2nd Ed. p. 498. The theory consistently has been applied that a particular offense may be mitigated by a good work record or, conversely, aggravated by a poor one. Either way, an employee's past job performance is normally a major factor in the determination of the proper penalty for any offense.

In this instance, the record is void of any evidence indicating the Administration considered the Grievant's history with the Department in the course of deciding to terminate her employment. What is contained in the record however is evidence supporting the Association's position that her tenure with the County has otherwise been free of any discipline since she was first hired in 2002. Under cross-examination, Sheriff Hagerty admitted that Officer Wirkkula had never before been disciplined while serving as a member

of the Employer's law enforcement unit. The acknowledgement fails to comport with this witness's opinion that the Grievant is not remedial. Nor is it consistent with the facts. In her December 2014 letter to the Sheriff, Ms. Wirkkula wrote:

> "I realize that I may need some help in dealing with the stresses in my life. I realize I may still be struggling with issues from my divorce and feeling of failing my child. *I have reached out and have been talking with a professional about these issues"*(Employer's Ex. 6; emphasis added).

In the course of her testimony at hearing, the Grievant indicated that she has sought help through professional counseling and is confident that she could return to work at the Department, adding "there is no way I would put my job on the line again." The accuracy of this testimony was not disputed on the record.

I have also taken into consideration the WCDA's defense of desperate treatment. In particular they cite the disciplinary penalty issued to one of the Department's jailers, Correctional Officer Winkelman for violation of the Department's policies regarding his involvement with an inmate. He was issued an 18 day suspension for striking up a very close relationship with a woman while she had been incarcerated which then continued upon her release. This constituted a direct and clear violation of prohibitions referenced in the County's policies for fraternizing with inmates.

The Employer sought to distinguish the Winkelman case arguing that members of its correctional staff are not licensed deputies similar to Deputy

Wirkkula, and consequently she is held to a higher standard. Further, they claim that there was no proof of a sexual relationship involved when they decided to suspend Officer Winkelman .

BMS Case 15-PA- 0148, addressed another disciplinary matter where the Sheriff terminated an experienced Correctional Officer (Gerads), who was a sergeant in the bargaining unit, for fraternizing with an inmate. In that case Winkelman was also cited by the union as support of their defense of desperate treatment.

In response, the Department sought to differentiate the Winkelman matter from Gerads' discharge by arguing, in part, that her status as a sergeant held her to a "higher standard of conduct" (at p. 9). The line between the Grievant's conduct and a licensed correctional officer who held the position of sergeant within the Sheriff's Office, or CO Winkelman's - both of whom have a direct and very public position of authority over inmates - is at least blurred and more probably indistinguishable when the Department's obvious need to preserve its credibility and integrity within the community it serves is taken into consideration. At both the Gerads arbitration hearing, as well as in this matter Sheriff Hagerty, in the course of his testimony, expressed his overarching concern that the public's trust in the Sheriff's office needs to be preserved.

In the Gerads case, the arbitrator reduced the termination to a written reprimand taking into consideration the penalty administered to Officer Winkelman. He also cited the fact that there was an insufficient showing of a

direct order from the Sheriff or any of Ms. Gerads' supervisors not to see the inmate (*id.* at p. 35). As previously noted, neither was Officer Wirkkula ever given a direct order to end her relationship with Mr. Lavrusik.

Award-

Sheriff Hagerty testified that his decision to discharge Deputy Wirkkula was driven in no small measure by his belief that she "just does not get it" in terms of her association with a known felon and therefore he did not believe that she was "remedial." However, based upon the Grievant's otherwise excellent work record, the fact that she was never issued a direct order to end her relationship with Lavrusik, and her efforts in seeking and obtaining "professional" counseling, I must respectfully disagree.

To the extent that the Grievant was less than forthright when answering questions concerning Lavrusik's consumption of alcohol in the course of the IA investigation, and that she continued to have interaction with him after professing otherwise, discipline is warranted. At the same time however, for the reasons enumerated here, I find that the County has not adequately established through clear and convincing evidence, justification for the penalty administered. Accordingly, the Union's grievance is sustained to the limited extent that Officer Wirkkula's discharge be reduced to a sixty (60) calendar day suspension without pay and she is to be forthwith reinstated to her former position and issued back pay and related contractual benefits for the time she

missed work, less the suspension ordered here. In calculating the amount owed to the Grievant, the Employer may deduct any earnings or income she may have otherwise acquired in the interim.

Respectfully submitted this 16th day of September, 2015.

Jay C. Fogelberg, Neutral Arbitrator